THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Civil Writ Petition (M/S) No. 308 of 2006
(Under Article 226/227 of the Constitution of India)

Rajdev Singh S/O late Shri Digvijay Singh,
R/O village Ajabpur Kalan, Post Office Ajabpur Kalan,
District Dehradun.

…… **Petitioner.**

Versus

1. Civil Judge (Senior Division) Dehradun.
2. M/s Mayur Planners,
   1, Race Course, Dehradun through its Proprietor
   S.K. Agarwal.
3. S.K. Agrawal, S/O late Shri Ugrasen Agrawal,
   Resident of 1, Race Course, Dehradun, Distt. Dehradun.

…….. **Respondents.**

Sri Kishore Kumar, learned counsel for the petitioner.
Sri Nand Prasad, Learned Counsel for the respondent No. 1.

Dated March 29, 2006

PC:
(Hon'ble B.S. Verma, J.)

Heard learned counsel.

The petitioner has filed the present writ petition for quashing the order dated 2.12.2005, passed by the Civil Judge (Senior Division) Dehradun whereby amendment application 85-A moved in Original Suit No. 715 of 2000 was allowed. By the said amendment application, the plaintiff has sought amendment that during the pendency of the suit, part of land had been transferred in favour of persons shown in the amendment application.

Admittedly, the suit is for specific performance of contract and it is admitted to the petitioner that part of land was transferred in favour of the persons mentioned in the amendment

application. The Civil Judge, Senior Division, has allowed the amendment application.

Aggrieved by the impugned order, the petitioner has filed this writ petition on the ground that the application paper nos. 27-C and 28-C filed by he ancestor of the petitioner, the original defendant Gajendra Singh regarding maintainability of the original suit are still pending. Therefore, there was no justification to decide the amendment application of the plaintiff-respondent paper no.85-A prior to disposal of said two applications.

The suit is for specific performance of contract. The persons who purchased the property are proper party to the proceeding. The Civil Judge did not commit any illegality in allowing the application for amendment. As far as the question of maintainability of the suit is concerned, the question is yet to be decided by the trial court. It is well settled that the courts while deciding amendment applications should take a liberal view for just decision to decide the controversy between the parties.

The writ petition is devoid of merit of merit and is hereby dismissed in limine.

(B.S. Verma, J.)

RCP